

AMENDED IN ASSEMBLY JANUARY 7, 2002

AMENDED IN ASSEMBLY MARCH 29, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1317

Introduced by Assembly Member Liu

February 23, 2001

~~An act to amend Section 943 of, and to add Section 686.3 to, the Penal Code, relating to victims of crime. An act to add Section 48918.6 to the Education Code, relating to pupils.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1317, as amended, Liu. ~~Identifying information: alleged victims of crime~~ *Pupils: expulsion.*

Under existing law, a pupil may be expelled from school for specified reasons. Existing law entitles a pupil under consideration of expulsion to a hearing to determine whether the pupil should be expelled.

This bill would, in addition to any other immunity that may exist, expressly deem any testimony provided by a pupil witness in an expulsion hearing conducted pursuant to those provisions to be a privileged publication or broadcast for purpose of these provisions of law relating to libel and slander.

~~Existing law provides that when an indictment is found, the names of the witnesses examined or deposed before the grand jury shall be inserted at the foot of the indictment, or endorsed thereon, before it is presented to the court.~~

~~This bill would require that in any criminal action or proceeding in which a witness is alleged to be a victim of domestic violence, stalking,~~

~~or identity theft, as defined, all identifying information, as defined, shall be redacted from any ruling, decision, pleading, motion, document, exhibit, or other evidence, including testimony before the court, except upon motion of the defendant for the court to review the identifying information in camera and authorize the disclosure to the defense of only that identifying information reasonably necessary to the defendant's defense under the California or United States Constitution.~~

~~The bill would also require the Judicial Council to provide by rule for the sealing of existing case files containing that identity information, subject to examination only by the parties thereto upon proper identification, and would make a conforming exception to the existing requirement for listing grand jury witnesses on indictments. The bill would impose a state-mandated local program by requiring new clerical duties of the courts.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: yes no.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 48918.6 is added to the Education Code,
2 to read:

3 48918.6. In addition to any other immunity that may exist, any
4 testimony provided by a pupil witness in an expulsion hearing
5 conducted pursuant to this article is expressly deemed to be a
6 communication protected by subdivision (b) of Section 47 of the
7 Civil Code.

8 SECTION 1. ~~Section 686.3 is added to the Penal Code, to~~
9 read:

1 ~~686.3.—(a) In any criminal action or proceeding in which a~~
2 ~~witness is alleged to be a victim of domestic violence, stalking, or~~
3 ~~identity theft all identifying information shall be redacted from~~
4 ~~any ruling, decision, pleading, motion, document, exhibit, or other~~
5 ~~evidence, including testimony before the court, except as provided~~
6 ~~in subdivision (b).~~

7 ~~(b) Upon motion of the defendant, the court shall review the~~
8 ~~identifying information in camera and authorize the disclosure to~~
9 ~~the defense of only that identifying information reasonably~~
10 ~~necessary to the defendant's defense under the California or~~
11 ~~United States Constitution.~~

12 ~~(c) The following definitions shall govern the construction of~~
13 ~~this section:~~

14 ~~(1) "Identifying information" means all current or prior names~~
15 ~~used by the alleged victim, addresses, telephone numbers, driver's~~
16 ~~license numbers, social security numbers, computer or financial~~
17 ~~account passwords, or employer's names, addresses, or telephone~~
18 ~~numbers, as well as his or her date of birth and mother's maiden~~
19 ~~name.~~

20 ~~(2) "Victim of domestic violence" means any person alleged~~
21 ~~to be the object of any of the acts prohibited by Sections 273.4 to~~
22 ~~273.65, inclusive, or defined in paragraph (2) of subdivision (b) of~~
23 ~~Section 273.7 or subdivision (b) of Section 13700.~~

24 ~~(3) "Victim of stalking" means any person alleged to be the~~
25 ~~object of any of the acts prohibited by Section 646.9.~~

26 ~~(4) "Victim of identity theft" means any person alleged to be~~
27 ~~the object of any of the acts prohibited by Section 530.5.~~

28 ~~(d) Effective January 1, 2002, the Judicial Council shall~~
29 ~~provide by rule for the sealing of case files otherwise subject to this~~
30 ~~section which were compiled prior to the effective date of this~~
31 ~~section, subject only to the examination thereof by the parties~~
32 ~~thereto; and shall adopt a form for a court order sealing such a case~~
33 ~~file, subject to examination only by the parties thereto upon proper~~
34 ~~identification.~~

35 ~~SEC. 2. Section 943 of the Penal Code is amended to read:~~

36 ~~943. Except as provided in Section 686.3, when an~~
37 ~~indictment is found, the names of the witnesses examined before~~
38 ~~the grand jury, or whose depositions may have been read before~~
39 ~~them, shall be inserted at the foot of the indictment, or endorsed~~
40 ~~thereon, before it is presented to the court.~~

1 ~~SEC. 3. Notwithstanding Section 17610 of the Government~~
2 ~~Code, if the Commission on State Mandates determines that this~~
3 ~~act contains costs mandated by the state, reimbursement to local~~
4 ~~agencies and school districts for those costs shall be made pursuant~~
5 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~
6 ~~2 of the Government Code. If the statewide cost of the claim for~~
7 ~~reimbursement does not exceed one million dollars (\$1,000,000),~~
8 ~~reimbursement shall be made from the State Mandates Claims~~
9 ~~Fund.~~

